

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
v.)	
)	CRIMINAL NO.05-10182-JLT
RAPHAEL GONZALEZ,)	
"a/k/a Rafi, et al.,)	
Defendants.)	
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MICHELLE ARPIN,)	
Petitioner)	
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FINAL ORDER OF FORFEITURE
AS TO 14 COUSINS STREET, SALEM, MASSACHUSETTS

TAURO, D.J.,

WHEREAS, on July 20, 2005, a federal grand jury sitting in the District of Massachusetts returned a seven-count Indictment charging Defendant Rafael Gonzalez, a/k/a "Rafi", (the "Defendant"), with Conspiracy to Distribute Oxycodone and Cocaine, in violation of 21 U.S.C. § 846 (Count One); Distribution of Oxycodone, in violation of 21 U.S.C. § 841(a)(1), and Aiding and Abetting, in violation of 18 U.S.C. § 2 (Count Two); Distribution of Cocaine, in violation of 21 U.S.C. § 841(a)(1), and Aiding and Abetting, in violation 18 U.S.C. § 2 (Counts Four, Five, and Six); and Possession With Intent to Distribute 500 Grams or more of Cocaine, in violation of 21 U.S.C. § 841(a)(1), and Aiding and Abetting, in violation of 18 U.S.C. § 2 (Count Seven);

WHEREAS, the Indictment also contained a Forfeiture Allegation seeking forfeiture, pursuant to 21 U.S.C. § 853, of any and all property constituting, or derived from, any proceeds

the defendant obtained, directly or indirectly, as a result of such offenses; and/or any property used or intended to be used, in any manner or part, to commit, or to facilitate the commission of, any such violations, including without limitation the following:

- (a) \$41,963 in United States Currency seized on June 2, 2005, from 14 Cousins Street, Salem, Massachusetts;
- (b) one 2000 BMW X5, Vehicle Identification Number WBAFB3359YLH05841, Massachusetts registration number 31MC25, seized on June 2, 2005 (the "Vehicle"); and
- (c) the real property located at 14 Cousins Street, Salem, Massachusetts 01970, more specifically described in the deed recorded on December 31, 2003, in the Essex South County registry of deeds, book 22250, page 468, (the "Cousins Street Property");

WHEREAS, on September 5, 2007, the Defendant pleaded guilty to Counts One, Two, Four, Five, Six and Seven of the Indictment and did not dispute the factual basis for forfeiture of the Vehicle and the Cousins Street Property;

WHEREAS, on March 3, 2008, the Court endorsed a Preliminary Order of Forfeiture against the Vehicle and the Cousins Street Property;

WHEREAS, on April 18, 2008, Michelle A. Arpin ("Arpin") filed a Third Party Petition for Relief from Preliminary Order of Forfeiture and for Hearing to Adjudicate Interest in Property (the "Petition"), asserting pursuant to 21 U.S.C. § 853(n)(2)

that she is the owner of the Cousins Street Property entitled to relief from forfeiture;

WHEREAS, the United States maintains that controlled substances and distribution paraphernalia were stored in the Cousins Street Property, rendering it forfeitable in this criminal case pursuant to 21 U.S.C. § 853, or in a civil forfeiture case pursuant to 21 U.S.C. § 881;

WHEREAS, the parties agree that Arpin is an owner of the Cousins Street Property whose interest cannot be forfeited in this criminal case, pursuant to 21 U.S.C. § 853(n)(6)(A);

WHEREAS, the parties agree that the United States could file a civil forfeiture action against the Cousins Street Property, pursuant to 21 U.S.C. § 881(a)(7);

WHEREAS, the United States takes no position as to whether Arpin is an innocent owner whose interest cannot be forfeited in a civil forfeiture case pursuant to 18 U.S.C. § 983(d);

WHEREAS, the parties desire to reach a full and final settlement of all criminal and potential civil forfeiture matters relating to the Cousins Street Property;

WHEREAS, the United States and Arpin have entered into a Settlement Agreement whereby Arpin agrees to the forfeiture of \$3,000 in United States currency (the "Currency") in lieu of the Cousins Street Property;

WHEREAS, on November 14, 2008, Arpin delivered to the United States Attorney's Office a check in the amount of \$3,000.00 in United States currency, in satisfaction of the agreed upon settlement; and

WHEREAS, the United States and Arpin now move that the Court issue a Final Order of Forfeiture against the Currency, pursuant to 21 U.S.C. § 853 and Rule 32.2(b)(1) of the Federal Rules of Criminal Procedure.

ACCORDINGLY, it is hereby ORDERED, ADJUDGED, AND DECREED that:

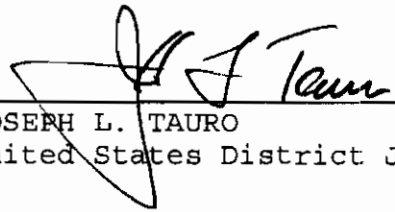
1. The Joint Motion for Final Order of Forfeiture of the Currency in lieu of the Cousins Street Property is allowed.

2. The United States Marshals Service shall dispose of the Currency pursuant to the Settlement Agreement entered into between the United States and Arpin, and in accordance with United States Department of Justice policies regarding the disposition of forfeited property.

DONE AND ORDERED in Boston, Massachusetts, this 19 day of Nov, 2008.

Dated: _____

11/19/08



JOSEPH L. TAURO
United States District Judge